

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of )  
Implementation of Section 621(a)(1) of )  
the Cable Communications Policy Act of 1984 )  
as amended by the Cable Television Consumer )  
Protection and Competition Act of 1992 )

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MB Docket No. 05-311

**COMMENTS OF THE MUNICIPALITY: CLINTON TOWNSHIP, MICHIGAN**

These comments are filed by Clinton Township Cable TV (CTTV) in support of the comments filed by the Alliance for Community Media ("Alliance"), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors ("NATOA"), and other national local government organizations. Like the Alliance, CTTV believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access ("PEG") services in our community.

**Cable Franchising in Our Community**

**Community Information**

Clinton Township is a township with a population of 96,000. Our franchised cable providers are Comcast Cablevision and Wide Open West Cable (WOW). Our community has negotiated cable franchises since 1980.

**Our Current Franchises**

Our current franchise with Comcast began in 1998 and expires in 2013. Our current franchise with WOW began in 1997 and expires in 2012.

Our franchises require the cable operator to pay a franchise fee to the township in the amount of 5% of the cable operator's gross revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system: We currently have one channel from each provider devoted to government/community access; two channels from each provider devoted to educational access; and one channel reserved for additional community or public access (from Comcast). *These channels are crucial to the community outreach efforts of our municipality and the school districts in our township (there are five school districts here).*

Our franchise requires that our PEG channels be supported in the following ways by the cable operator: through the providing of the 5% fee, plus an additional 1% fee referred to as a PEG grant from WOW each year, and the amount WOW pays matched cumulatively every three years by Comcast; also, through the providing of channel capacity.

Our franchise allows for capital support for PEG Access and other public interest services in the amount of 5% of gross revenues. These fees are delivered annually to the township and deposited into the general fund.

Our franchise contains the requirements regarding emergency alerts. These emergency alert requirements provide an important avenue of communication with our residents in the event of an emergency and have been pointed to by the township's Emergency Management Office in the application for Homeland Security grants. The ability to communicate via CTTV for local emergencies and to access all channels via specific procedure is considered to be of major importance to the health, safety and welfare of our population.

### **PEG Access Services**

CTTV has provided access services in our community for the past twelve years. In our most recently completed fiscal year, CTTV has provided 500 hours of new original local programming to the cable subscribers. The community used our air time programming that we have either produced and televised or, upon receipt of a pre-produced videotape, televised for our viewers. Below are the highlights of our services to the community.

The Government Access channel (CTTV) televises community programming in addition to municipal topics, live township board meetings and community/township announcements. The following types of programming exist:

- Coverage of community planning forums, town hall meetings, and neighborhood board meetings.
- A video bulletin board with text and graphics for community announcements.
- Community-produced television programming for special interests (such as - seniors, non-English-speaking, ethnic and cultural groups, youth, people with disabilities, advocacy groups, health care, etc.)
- Staff-produced television programming on topics of interest to the local community.

- Capacity for non-profit organizations to air locally-produced programming.
- Free viewing of cable service at selected public sites: Senior Center (including free Internet access from Comcast Cablevision), Clinton-Macomb Public Library, Civic Center, Senior Housing Village Community Building.
- Free cable subscriptions at all municipal buildings for the benefit of Police Department, Fire Department, Civic Center, Recreation Dept., Water Department.
- Local news coverage (of the type not seen regularly on broadcast news media from network affiliates in the Detroit market).
- The ability to apply for and receive grants to produce specific community programming.
- Media literacy and production training for neighborhood-based community organizations and individuals, including Senior Citizens.
- Video production facilities including studio, field, editing, and remote studio.
- Video production internships for college students (for credit and work experience).
- Support to Media Training Centers in local schools, enhancing learning opportunities for students.
- Pre-produced program redistribution from other communities/video production venues.
- Technical design, installation, and maintenance support.
- Open microphone format during township Board Meetings.
- Local political coverage, candidate platform statements and candidate debates during election season.
- Distance learning: programming delivered to public and private institutions, facilitating distribution of for-credit instruction, public library distribution of select video programs and meetings.
- Gavel-to-gavel coverage of governance proceedings, state of the community speeches, etc.
- E-programming delivered to the home via video, e-mail, and web-based content (in the near future, provided enough bandwidth can be secured, funded).
- Can include support to traditional learning (such as "Homework Hotline") or fully-electronic course delivery (schools); Production, support, and distribution for non-credit

classes and job training; Distribution of community college and university educational programming.

- Internet access at public sites.
- Computer literacy training for youth and families via video programs.
- Unique non-local programming potentially available via satellite feed such as Arts Showcase, Mind Extension University, and GSTN or other national/international news.
- Gavel-to-gavel coverage of state legislative sessions, hearings, and other select proceedings, if desired (MGTV – Michigan Government Television).
- Gavel-to-gavel coverage of local government meetings/hearings and other select "local" governmental proceedings, such as County Commissioner meetings.
- Viewer questions answered during live call-in segments of television shows, meetings.
- Interactive participation in government meetings at community sites.
- Election night coverage.
- "24-Hour City Hall" video kiosk or computer access to government services such as permits, etc.
- Local services via I-Net and cable modem. (High speed data, voice, and video linkage between public buildings. Can include services such as traffic light monitoring, live interactive court arraignments, video transmission to remote sites, emergency communications services such as 911, and subscriber broadband access.)
- Other

### **The Franchising Process**

The cable systems serving our community also serve many adjoining communities. In 1997-98 our community worked together with several other communities to issue a cable franchise for the cable companies. We did so by obtaining copies of already agreed-upon franchise agreements or working documents, which were in some cases reviewed and adopted verbatim into our own franchise agreements, including the use of "me, too" clauses. This allowed the company to quickly obtain franchises in these communities so as to be able to serve a large region, while also allowing for individual provisions in specific franchises in order to tailor them to meet local needs.

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its

terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and local interests, including addressing public rights-of-way issues and mechanisms for handling resident issues during the installation of the cable/broadband plant in the community, and issues related to subsequent subscriber services, and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties. Without it, the companies are not legally bound and the reliance is on “business good will” (not a reliable means) to accomplish local goals on behalf of the residents.

While a franchise is negotiated by the local government as a contract, the process provides notice requirements for the public and the cable operator under state and local law, as set forth in Clinton Township’s ordinance.

### **Competitive Cable Systems**

Our community granted a competitive franchise to Ameritech New Media in 1997 and that provider was bought by Wide Open West, which provides service in Clinton Township, Michigan, today.

The installation of the Ameritech cable plant took place over the course of 3 years. During that time, issues relating to construction brought to our attention by property owners were handled on a case-by-case basis to the satisfaction of the township and the residents. The negotiating of the contract, once the township board agreed to have a competitive cable provider, took less than 90 days. The franchise agreement was based on our franchise ordinance and on what the incumbent provider had in its agreement. To this day, the township has touted the fact that there is competition in this community, that cable rates are in check because of it and that the spirit of welcoming more than one video, internet and phone services provider is alive and well, with proper compensation for the time and effort on the part of township employees and legal staff to negotiate and help administer the existence of companies that need township resources in order to exist.

### **Conclusions**

This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public’s interest in telecommunications services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community’s local needs. We believe that those services such as PEG should be required of *all* broadband telecommunications providers.

The local cable franchising process has functioned well in Clinton Township. As the above information indicates, we are experienced at working with cable providers and community interests to see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights-of-way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers and property owners are protected.

Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new federal bureaucracy in Washington to handle matters of primarily local interest.

Local franchises allow each community, including Clinton Township, Michigan, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks and local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The Clinton Township Board of Trustees, Supervisor's Office, Communications Committee, and Cable TV and Communications Department, therefore, respectfully request that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law..

The PEG access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

The nation would be well served by a policy of "Community Reinvestment" through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community's property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;
3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Thank you for your consideration of the concerns of the most populated township in the State of Michigan – Clinton Township. Should there be any need for direct input from this municipality, please contact us.

Respectfully submitted,

By:

Robert J. Cannon  
Supervisor,  
On behalf of the entire  
Clinton Township Board  
Clinton Township, Michigan  
40700 Romeo Plank Road  
Clinton Twp., MI 48038

Linda A. Badamo  
Director of Cable TV and Communications  
Department  
Communications Committee Member  
Clinton Township, Michigan  
40700 Romeo Plank Road  
Clinton Twp., MI 48038

Phone: (586) 286-8000 (General Township)  
(586) 723-8092 (Supervisor Cannon)  
(586) 723-8044 (Ms. Badamo)

cc: Alliance for Community Media, [Getup@alliancecm.org](mailto:Getup@alliancecm.org)  
Senator Carl Levin  
Senator Debbie Stabenow